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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 18th December, 1972:—

BILL NO. XLIII OF 1972

A Bill further to amend the Capital of Punjab (Development and Regulation) Act, 1952, as in force in the Union territory of Chandigarh.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Capital of Punjab (Development and Regulation) (Chandigarh Amendment) Act, 1972.

(*2*) It shall be deemed to have come into force on the 1st day of November, 1966 except section 7 which shall come into force at once.

Punjab Act XXVII of 1952.

Amendment of section 3.

2. In section 3 of the Capital of Punjab (Development and Regulation) Act, 1952, as in force in the Union territory of Chandigarh (hereinafter referred to as the principal Act),—

(*i*) in sub-section (*1*), for the words "The Central Government may", the words "Subject to the provisions of this section, the Central Government may" shall be substituted;

(*ii*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) Notwithstanding anything contained in any other law for the time being in force, until the entire consideration money together with interest or any other amount, if any, due to the Central Government on account of the transfer of any site or

building, or both, under sub-section (*1*) is paid, such site or building, or both, as the case may be, shall continue to belong to the Central Government.".

Substitution of new sections for section 8.

3. For section 8 of the principal Act, the following sections shall be substituted, namely:—

Imposition of penalty and mode of recovery of arrears.

"8. (*1*) Where any transferee makes any default in the payment of any rent due in respect of any lease of any site or building, or both, as the case may be, under section 3, or where any transferee or occupier makes any default in the payment of any fee or tax levied under section 7, the Estate Officer may direct that in addition to the amount of arrears, a sum not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty:

Provided that no such direction shall be made unless the person affected thereby has been given a reasonable opportunity of being heard in the matter.

(*2*) Where any person makes any default in the payment of any amount, being the arrears and penalty directed to be paid under sub-section (*1*), such amount may be recovered from the transferee or occupier, as the case may be, in the same manner as an arrear of land revenue.

Resumption and forfeiture for breach of conditions of transfer.

8A. (*1*) If any transferee has failed to pay the consideration money or any instalment thereof on account of the sale of any site or building, or both, under section 3, or has committed a breach of any other conditions of such sale, the Estate Officer may, by notice in writing, call upon the transferee to show cause why an order of resumption of the site or building, or both, as the case may be, and forfeiture of the whole or any part of the money, if any, paid in respect thereof (which in no case shall exceed ten per cent. of the total amount of the consideration money, interest and other dues payable in respect of the sale of the site or building, or both) should not be made.

(*2*) After considering the cause, if any, shown by the transferee in pursuance of a notice under sub-section (*1*) and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard in the matter, the Estate Officer may, for reasons to be recorded in writing, make an order resuming the site or building, or both, as the case may be, so sold and directing the forfeiture as provided in sub-section (*1*) of the whole or any part of the money paid in respect of such sale.".

Omission of section 9.

4. Section 9 of the **principal Act** shall be omitted.

Amendment of section 10.

5. In sub-section (*1*) of section 10 of the principal Act, for the words and figures "sections 8 and 9", the words, figures and letter "section 8 or section 8A" shall be substituted.

Substitution of new section for section 19.

6. For section 19 of the principal Act, the following section shall be substituted, namely:—

Bar of jurisdiction.

"19. No court shall have jurisdiction to entertain any suit or proceeding in respect of the recovery of any arrears or penalty under section 8 or in respect of the resumption of any site or building, or both, as the case may be, under section 8A or the forfeiture of any money under that section, or in respect of any order made by the Central Government or any other authority in the exercise of any power conferred by or under this Act.".

Validation.

7. Notwithstanding any judgment, decree or order of any court, anything done or any action taken (including any notice issued, any order made for resumption of any site or building, or both, as the case may be, or any such resumption effected, or any order made for the forfeiture of any money or any money forfeited, or any order made for the recovery of any arrears or any arrears recovered, or any penalty imposed or recovered) or purported to have been done or taken under the principal Act shall, in so far as it is consistent with the provisions of the principal Act as amended by this Act, be deemed to be as valid and effective as if such thing or action was done or taken under the principal Act as amended by this Act, and accordingly no suit or other legal proceeding shall be maintained or continued in any court,—

(*i*) for the recovery of any site or building, or both, as the case may be, which has or have been resumed; or

(*ii*) for the cancellation of any order made for the resumption of any site or building, or both, as the case may be; or

(*iii*) for the recovery of any money forfeited; or

(*iv*) for the cancellation of any order made for the forfeiture of any money; or

(*v*) for the refund of any arrears recovered; or

(*vi*) for the cancellation of any order made for the recovery of any arrears; or

(*vii*) for the refund of any penalty recovered; or

(*viii*) for the cancellation of any order imposing any penalty.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court in Messrs. Jagdish Chand Radhey Sham *Vs.* The State of Punjab and Others (Civil Appeal No. 1099 of 1967) declared section 9 of the Capital of Punjab (Development and Regulation) Act, 1952 (Punjab Act XXVII of 1952), as in force in the Union territory of Chandigarh, as being violative of articles 14 and 19(1)(f) of the Constitution and held that the Central Government is not entitled to resume the site or building transferred under section 3 of that Act, or to forfeit the money paid in respect of such transfer under the said section 9. The main ground on which the Supreme Court had based its conclusions was that there is nothing in the Act to guide the exercise of power by the Government as to when and how any of the methods for recovering the amount of consideration in arrears specified in sections 3, 8 and 9 of the Act, will be chosen.

2. The decision of the Supreme Court has created several practical difficulties in administering the provisions of the Act. Further, the situation created by the decision of the Supreme Court is already having an adverse effect on the regulation and development of the entire city of Chandigarh, which has been planned and developed with great care and at considerable expense over the past several years. It is, therefore, essential to remove the objections pointed out by the Supreme Court by amending the Act retrospectively from the 1st of November, 1966, being the date on which the Union territory of Chandigarh was formed, and to validate the actions taken under the impugned provisions of the Act.

3. The Bill seeks to achieve the aforesaid objectives.

UMASHANKAR DIKSHIT.

NEW DELHI;
The 8th December, 1972.

B. N. BANERJEE,
Secretary.

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